

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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*In re: Bret O. Whipple,*  
Attorney at Law, Bar No. 6168

Case No. 2:21-cv-01941-MMD  
ORDER OF SUSPENSION

**I. SUMMARY**

This is an attorney discipline matter. Before the Court is Bret O. Whipple's response to the Court's Order to Show Cause ("OSC") why he should not be suspended from practice before this Court following the Order Approving Conditional Guilty Plea Agreement filed by the Nevada Supreme Court ("NSC") on September 17, 2021. (ECF Nos. 1 (OSC), 5 (the "Response").) As further explained below, the Court will suspend Attorney Whipple from practice before this Court because this Court has neither the obligation, resources, nor inclination to monitor Attorney Whipple's compliance with the probationary conditions the NSC imposed on him despite his unprompted retention of monitoring counsel at his own expense. However, Attorney Whipple may file a petition for reinstatement once he has fully discharged those conditions and can produce a certificate of good standing from the NSC reflecting the same.

**II. BACKGROUND**

Attorney Whipple was suspended by the NSC following his conditional guilty plea to a charge that he violated: "RPC 1.15 (safekeeping property), RPC 5.3 (responsibilities regarding nonlawyer assistants), and RPC 8.1 (disciplinary matters). (ECF No. 1 at 6.) He agreed to a one-year suspension stayed for 18 months provided he complies with certain probationary conditions. (*Id.* at 7-8.) That means that the NSC will release Attorney

1 Whipple from probation sometime in 2023 assuming he complies with the conditions  
2 imposed on him.

3 This Court issued the OSC as to why Attorney Whipple should not be suspended  
4 from practice in this Court on September 20, 2021. (ECF No. 1.) Attorney Whipple timely  
5 filed his Response on October 20, 2021. (ECF No. 5.) In his Response, Attorney Whipple  
6 notes in pertinent part that he has taken it upon himself to hire experienced federal  
7 counsel, at his own expense, to monitor his compliance with the probationary conditions  
8 the NSC imposed on him. (*Id.* at 7-8.) As to why the Court should not suspend him,  
9 Attorney Whipple first argues that his clients in the five federal cases he is currently  
10 handling will be prejudiced if he cannot proceed as their counsel and proffers supportive  
11 letters from clients to this effect. (*Id.* at 8-10.) Second, Attorney Whipple argues it was the  
12 intent of the Nevada State Bar and himself to enter into a stayed suspension, so this Court  
13 should not impose a harsher sanction than the parties agreed to by treating his stayed  
14 suspension as an actual suspension in this Court. (*Id.* at 10.) Attorney Whipple then  
15 argues that the facts of his case do not warrant a suspension by this Court. (*Id.* at 10-11.)  
16 Attorney Whipple fourth argues that the cases he is currently handling before this Court  
17 do not involve client trust funds, so there is little risk of him running into any further client  
18 trust fund issues in his current federal cases. (*Id.* at 11.) Attorney Whipple concludes by  
19 astutely recognizing that this Court has tended to treat stayed suspensions by the NSC  
20 as actual suspensions, in the sense that this Court generally suspends attorneys subject  
21 to NSC probationary conditions and encourages them to petition for reinstatement once  
22 they have successfully discharged those probationary conditions. (*Id.* at 11-12.) However,  
23 Attorney Whipple argues, he has preemptively alleviated any burden on the Court by  
24 retaining monitoring counsel and therefore his case should be treated differently. (*Id.* at  
25 12.)

### 26 **III. DISCUSSION**

27 This Court imposes reciprocal discipline on a member of its bar when that person  
28 is suspended or otherwise disciplined by a state court unless it determines that the state's

1 disciplinary adjudication was improper. See *In re Kramer*, 282 F.3d 721, 724 (9th Cir.  
2 2002). Specifically, the Court will only decline to impose reciprocal discipline if the  
3 attorney subject to discipline presents clear and convincing evidence that:

4 (A) the procedure in the other jurisdiction was so lacking in notice or opportunity to  
5 be heard as to constitute a deprivation of due process; (B) there was such an  
6 infirmity of proof establishing the misconduct as to give rise to a clear conviction  
7 that the court should not accept as final the other jurisdiction's conclusion(s) on  
that subject; (C) imposition of like discipline would result in a grave injustice; or (D)  
other substantial reasons justify not accepting the other jurisdiction's  
conclusion(s).

8 LR IA 11-7(e)(3); see also *In re Kramer*, 282 F.3d at 724-25 (stating that the attorney  
9 bears the burden by clear and convincing evidence).

10 The Court will suspend Attorney Whipple from practice before this Court because  
11 the NSC's disciplinary adjudication regarding Attorney Whipple following his conditional  
12 guilty plea appears to have been proper, and he presents no clear and convincing  
13 evidence to the contrary. Indeed, Attorney Whipple concedes there was nothing improper  
14 about the NSC's disciplinary adjudication. (ECF No. 5 at 8.) Further, and as noted above,  
15 while Attorney Whipple does appear to be allowed to practice in the Nevada state courts,  
16 he is also subject to probationary conditions that this Court has neither the obligation,  
17 resources, nor inclination to monitor. (ECF No. 1 at 7-8.)

18 Despite Attorney Whipple's good faith efforts to obtain monitoring counsel and  
19 valid arguments, the Court sees no substantial reasons not to suspend Attorney Whipple  
20 based on its review of the record. See LR IA 11-7(e)(3). As Attorney Whipple correctly  
21 identified in his Response, the Court's practice is to treat stayed suspensions by the NSC  
22 as actual suspensions in this Court, following the NSC's lead in cases where it imposes  
23 discipline instead of creating a parallel monitoring system like Attorney Whipple proposes.  
24 The Court does not wish to create an exception for Attorney Whipple in this case, or a  
25 parallel monitoring system like he proposes. "Admission to practice before the Supreme  
26 Court of Nevada, in good standing, is a continuing condition of admission to the bar of  
27 this court." LR IA 11-1(a)(1). Attorney Whipple is not currently in good standing with the  
28 NSC. Thus, he cannot currently satisfy a prerequisite for admission to the bar of this

1 Court. Moreover, as noted both above and in other, similar orders, the Court has neither  
2 the obligation, resources, nor inclination to monitor compliance with the probationary  
3 conditions the NSC imposed on Attorney Whipple—even if monitoring counsel takes  
4 some of that burden from the Court. The Court will therefore suspend Attorney Whipple.

5 That said, Attorney Whipple is free to petition the Court for reinstatement under LR  
6 IA 11-7(i) assuming he is able to successfully complete his term of probation with the  
7 NSC. Any petition for reinstatement should not be filed until Attorney Whipple has  
8 successfully discharged each and every probationary condition imposed on him by the  
9 NSC, and he is able to present both a certificate of good standing from the NSC and  
10 evidence sufficient to establish that his practice in the Nevada state courts is fully  
11 unencumbered by any probationary or other conditions stemming from his conditional  
12 guilty plea or any other discipline imposed on him by the NSC, such as a letter from the  
13 Nevada State Bar confirming he successfully discharged his probation.

14 **IV. CONCLUSION**

15 It is therefore ordered that Brett O. Whipple, Bar No. 6168, is hereby suspended  
16 from practice in the United States District Court for the District of Nevada.

17 DATED THIS 10<sup>th</sup> Day of January 2022.

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20 MIRANDA M. DU  
21 CHIEF UNITED STATES DISTRICT JUDGE  
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CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(b) and LR 5-1, I hereby certify that I am an employee of United States District Court, and that on this 10th day of January 2022, I caused to be served a true and correct copy of the foregoing Order of Suspension to the following parties via Certified Mail, Return Receipt Requested via the United States Postal Service, in a sealed envelope, postage prepaid, to the following:

Bret O. Whipple  
1100 S. Tenth Street  
Las Vegas, NV 89104

Certified Mail No.: 7018 3090 0001 1163 9535

/s/ Lorena Q.  
Deputy Clerk  
United States District Court,  
District of Nevada